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SERVICE DATE – NOVEMBER 3, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 417X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY–ABANDONMENT EXEMPTION–IN CLAY COUNTY, MN

Decided: November 2, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 15.91-mile line of railroad between milepost 18.09 near Glyndon and milepost 34.00 near Felton, in Clay County, MN. Notice of the exemption was served and published in the Federal Register on May 25, 2004 (69 FR 29782). The exemption became effective on June 24, 2004.

By decision served June 23, 2004, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the condition that BNSF retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).¹ This historic condition was imposed due to the concern of the Minnesota Historical Society (SHPO) concern that the line proposed for abandonment might have significance as an important early rail link.

¹ The June 23 decision also imposed three other conditions that required BNSF to: (1) consult with National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to salvage activities to plan for the relocation of the eleven geodetic station markers on the line; (2) prior to beginning any salvage activities, consult with the Minnesota Pollution Control Agency to address possible adverse impacts to surface waters and wetlands, inspection of any switching areas for contaminated soils, and the handling and disposal of railroad ties; and (3) prior to the beginning of any salvage activities, contact the U.S. Environmental Protection Agency, Region 5 (Kathleen Kowal, 312-353-5206), regarding removal and salvage methods, final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills, stormwater runoff mitigation practices that will be utilized during abandonment activities, revegetation methods, and bridge and culvert maintenance activities following abandonment.

On October 13, 2004, SEA sent to the Advisory Council on Historic Preservation (ACHP) a letter with a copy of a Memorandum of Agreement (MOA) executed by the Board, BNSF and the SHPO that was negotiated to comply with the section 106 process. SEA states that the filing of the MOA with the ACHP completes the Board's compliance responsibilities under section 106 of NHPA. Therefore, SEA recommends that the section 106 historic preservation condition imposed in the June 23, 2004 decision be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the June 23, 2004 decision is removed.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary